

Amendments to the Drawings

Please consider replacement Figures 1 and 2, and newly added Figure 13. The term “PRIOR ART” has been added to Figures 1 and 2. Figure 13 merely shows that which was already recited in claim 18, and does not add new matter.

Attachment: Two replacement drawing sheets and one new drawing sheet.

REMARKS

Applicant has received and reviewed the Office Action mailed March 29, 2005. Claims 1-9 and 16-19 remain pending, with claims 11-15 cancelled without prejudice. Reconsideration and reexamination are respectfully requested.

Applicant notes that during telephone interviews initiated by the Examiner with the undersigned attorney on March 16 and 17, 2005, a possible Examiner's amendment to the claims was discussed in addition to the restriction requirement noted in the Office Action. Specifically, 35 U.S.C. §112 rejections of claims 3-6 were discussed. Applicant would like to thank the Examiner for the courtesies offered during the telephone interviews. However, agreement resulting in allowance of all elected claims could not be reached at that time.

On pages 2-3 of the Office Action, the Examiner states a restriction requirement. Applicant affirms the provisional election of Group I drawn to a material conveyance device without traverse. Claims 11-15, drawn to Group II, have been cancelled without prejudice.

On page 3 of the Office Action, the Examiner noted informalities in the Abstract. Applicant thanks the Examiner for noting the informality and has amended the Abstract herein.

On pages 3-4 of the Office Action, the claims were noted for certain informalities. Figures 1 and 2 have been amended to include the statement of "PRIOR ART", as suggested by the Examiner. Figure 13 has been added to show that which was already claimed in claim 18. The specification has been amended to provide description of Figure 13, and merely reflects that which was already in the original set of claims. No new matter is added.

On pages 4-5 of the Office Action, claims 3-6 were rejected under 35 U.S.C. §112, second paragraph, for various informalities. These claims have been amended to overcome the rejections.

Claim 3 (in clean form) now recites:

3. The material conveyance apparatus of claim 2 further comprising at least one lateral support device coupled to the first support structure and the second support structure to create lateral outward force between the first support structure and the second support structure.

The term "support structure" is now used consistently, with antecedent basis in claim 1.

Claim 4 (in clean form) now recites:

4. The material conveyance apparatus of claim 3 wherein the at least one lateral support device includes a flexible length device allowing the distance between the first support structure and the second support structure to vary.

The term “support structure” is again used consistently. With respect to the Examiner’s specific objection to “flexible length device”, this may be a spring, pneumatic device or the like. This is in contrast to a rigid member that may fall within the language of “lateral support device”, and provides a further limitation to “lateral support device”.

Claim 5 (in clean form) now recites:

5. The material conveyance apparatus of claim 1 further comprising:
a first beam secured via at least a first arm to the first support structure to provide vertical support thereto;
a second beam secured via at least a second arm to the second support structure to provide vertical support thereto;
a cross member secured to the first arm and the second arm to provide lateral support to both beams.

The language of claim 5 has been simplified by substituting the word “beam” for “longitudinal member”. Also, the dependency of claim 5 has been corrected. Previously, claim 5 recited dependency from claim 4, giving rise to the Examiner’s objection to the term “a cross member”, which could have been confused with the “lateral support device” recited in claim 4.

Claim 6 (in clean form) now recites:

6. The material conveyance apparatus of claim 1, further comprising:
first and second beams extending along an axial length of the belt;
a first arm secured to the first support structure to provide vertical support between the first support structure and the first beam;
a second arm secured to the second support structure to provide vertical support between the second support structure and the second beam; and
first and second lateral support devices;
wherein the first lateral support device provides lateral force between the first arm and the second beam, and the second lateral support device provides lateral support between the second arm and the first beam.

The dependency of claim 6 has been corrected, and portions added to the claim are intended to provide antecedent basis and clarification of the claim. By correcting the dependency of claim 6, the identified confusion between the first and second lateral support devices recited in claim 6 and the lateral support device of previous base claims 3 and 4 is avoided. It is believed that with these amendments, the claim rejections under 35 U.S.C. §112, second paragraph, are overcome.

On pages 5-6 of the Office Action, claims 16, 18 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,398,804 to Ecker et al. After careful review of the cited reference, and in light of the above amendments, Applicant respectfully disagrees.

Claim 16 has been amended as follows:

16. (Currently Amended) A materials conveyance apparatus comprising:
a belt having a first side edge and a second side edge, each side edge including a number of engaging devices including a number of magnets;
a first support rail including a number of magnets adapted to be engaged by the engaging devices; and
a second support rail including a number of magnets adapted to be engaged by the engaging devices;
wherein the belt is disposed with respect to the support rails such that the magnets of the support rails repel the magnets of the engaging devices and provide support to the belt.

It appears that the magnets used by Ecker et al. are used as part of a drive system, rather than providing vertical support to the belt. Further, it is clear from Figure 7, which is cited by the Examiner, that repulsion between the magnets of Ecker et al. would actually cause the opposite of support for the belts of Ecker et al. Instead the belt appears to ride on a small wheeled structure that runs within a track. Therefore it is believed that claim 16, as amended, is patentable over Ecker et al. In light of the allowability of claim 16, it is believed that claims 18 and 19 are also in condition for allowance.

On pages 6-7 of the Office Action, claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ecker et al. in view of U.S. Patent No. 5,441,458 to Rogus. It is believed that with the above amendment and remarks, Ecker et al. do not disclose the device claimed in the parent claim for claim 17. Rogus is merely cited for showing a tensioner member. It is believed, therefore, that a *prima facie* case of unpatentability has not been stated. Therefore claim 17 is also believed to be in condition for allowance.

Appl. No. 10/732,718
Amdt. dated June 28, 2005
Reply to Office Action of March 29, 2005

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Jon Forman

By his Attorney,

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Attachment: 2 Replacement Drawing Sheets
1 New Drawing Sheet